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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 17th November, 2026***

\# **CNR No. DLHC010457762026**

\+ BAIL APPLN. 4035/2026

PIYUSH KUMAR .....Petitioner

Through: Mr. Sushil Kumar Sharma, Ms. Vrinda Gupta, Mr. Shashwat Sharma and Mr. Nikhil Kumar, Advs.

versus

THE STATE OF NCT OF DELHI .....Respondent

Through: Mr. Manoj Pant, APP
M: 9971560508

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J. *(Oral):*

This matter is taken up today as 16th November, 2026, was declared as a Holiday on account of "Chhath Puja".

1. The present is a second bail application filed under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), on behalf of the petitioner, i.e., Piyush Kumar, S/o Late Mahinder Kumar, seeking grant of regular bail in connection with the First Information Report ("FIR") being *FIR No. 359/2025* dated 11th December, 2025, registered under Sections 20/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act"), at Police Station ("PS") Crime Branch, Delhi.

2. The first bail application of the petitioner was dismissed by this Court

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vide order dated 17th March, 2026, passed in *BAIL APPLN. 1069/2026*.

3. Today, this Court is informed that the present bail application has been filed consequent upon the dismissal of the regular bail application by the Special Judge (NDPS), Tis Hazari Courts, Delhi, *vide* order dated 10th September, 2026, passed in connection with *FIR No. 359/2025.*

4. The case being *SC 702/2026,* arising out of *FIR No. 359/2025*, is pending adjudication before the Special Judge (NDPS), Tis Hazari Courts, Delhi, and is presently at the stage of arguments on charge.

5. The case of the prosecution, as culled out from the material on record, is as follows:

6. On 11th December, 2025, at about 11:00 AM, secret information was received that one Kundan Thakur @ Kundan Lal, i.e., co-accused no. 1, who allegedly brings *charas* from Himachal Pradesh and supplies it in Delhi and other States, had arrived at Hotel Krishna Cottage, Paharganj, Delhi.

7. Consequently, co-accused no. 1 was apprehended from the hotel. A search of the room booked in his name and of his luggage led to the recovery of a black and grey bag belonging to him. On search of the bag, two brown parcels containing a black, foul-smelling substance were recovered.

8. On the basis of its smell and physical appearance, and testing on a field testing kit, the recovered substance was found to be *charas*. The Forensic Science Laboratory ("FSL") team was called to examine the said parcels. A small portion from each parcel was tested on a field testing kit, which again indicated the presence of *charas*. The parcels were weighed on an electronic weighing machine and found to contain 444 grams and 692 grams of *charas* respectively, totalling 1136 grams.

9. During interrogation, co-accused no. 1 disclosed that for the last several

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years he had been extracting *charas* from cannabis plants in the hilly areas and regularly supplying it for monetary gain to customers based in Delhi-NCR. In his disclosure, he named Piyush Kumar @ Elu, the petitioner herein, and his friend Gaurav Verma, i.e., co-accused no. 2, as his two regular customers in Delhi.

10. Thereafter, on 12th December, 2025, during the course of investigation, the petitioner and co-accused no. 2 were apprehended.

11. Subsequently, upon completion of the investigation, a Chargesheet was filed on 02nd June, 2026, whereby, the petitioner was charged under Sections 20/29 of the NDPS Act.

12. In support of the present application, learned counsel appearing for the petitioner submits that no recovery of any psychotropic substance has been made from the petitioner and that the petitioner was also not named in *FIR No. 359/2025.*

13. He further submits that the Chargesheet has already been filed in the present case and that the custody of the petitioner is no longer required.

14. It is submitted that co-accused no. 2 has already been granted bail by this Court *vide* order dated 09th July, 2026, passed in *BAIL APPLN. 1403/2026*. It is, therefore, submitted that the petitioner is entitled to be granted bail on the ground of parity.

15. *Per contra*, learned Additional Public Prosecutor ("APP") for the State submits that financial transactions of approximately Rs. 14 (fourteen) lakhs took place between the petitioner and a third person between 2023 and 2025, for the purpose of procuring the contraband.

16. He, thus, submits that the petitioner cannot be enlarged on bail merely on the ground of parity.

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17. He further submits that the said aspect has already been considered by the Trial Court.

18. Having heard learned counsels appearing for the parties, this Court notes that, admittedly, no recovery of any contraband has been made from the petitioner.

19. Accordingly, the rigours of Section 37 of the NDPS Act would not apply to the petitioner. At best, the case of the prosecution, on the basis of the previous transactions, is that the petitioner is a consumer of the contraband. However, *prima facie*, there is nothing on record to show that the petitioner was peddling or carrying drugs in any manner whatsoever. This is further fortified by the fact that no recovery of any psychotropic substance has been made at the instance of the petitioner.

20. Even otherwise, the test of 'reasonable grounds' under Section 37 of the NDPS Act is one of substantial probable cause for believing that the accused is not guilty. It is stricter than a *prima facie* view but does not require a finding of 'not guilty'. In this regard reference may be made to the judgment in the case of ***Aditya Kumar Versus Union of India Through Narcotic Control Bureau, Lucknow, 2022 SCC OnLine All 625***, wherein, it was held as follows:

> *"xxx xxx xxx*
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> ***18. It is plain from a bare reading of the non obstante clause in Section 37 of the NDPS Act and sub-section (2) thereof that the power to grant bail to a person accused of having committed offence under the NDPS Act is not only subject to the limitations imposed under Section 439 of the Criminal Procedure Code, 1973, it is also subject to the restrictions placed by clause (b) of sub-section (1) of Section 37 of the NDPS Act. Apart from giving an opportunity to the Public Prosecutor to oppose the application for such release, the other twin conditions viz. (i) the***

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satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence; and (ii) that he is not likely to commit any offence while on bail, have to be satisfied. It is manifest that the conditions are cumulative and not alternative. The satisfaction contemplated regarding the accused being not guilty, has to be based on "reasonable grounds".

*19. **The expression "reasonable grounds" has not been defined in the said Act but means something more than prima facie grounds. It connotes substantial probable causes for believing that the accused is not guilty of the offence he is charged with. The reasonable belief contemplated in turn, points to existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence** (vide Union of India v. Shiv Shanker Kesari, (2007) 7 SCC 798). Thus, recording of satisfaction on both the aspects, noted above, is sine qua non for granting of bail under the NDPS Act.*

*20. **We may, however, hasten to add that while considering an application for bail with reference to Section 37 of the NDPS Act, the court is not called upon to record a finding of "not guilty". At this stage, it is neither necessary nor desirable to weigh the evidence meticulously to arrive at a positive finding as to whether or not the accused has committed offence under the NDPS Act.** What is to be seen is whether there is reasonable ground for believing that the accused is not guilty of the offence(s) he is charged with and further that he is not likely to commit an offence under the said Act while on bail. The satisfaction of the court about the existence of the said twin conditions is for a limited purpose and is confined to the question of releasing the accused on bail.*

xxx xxx xxx"

(Emphasis supplied)

21. The aforesaid principles make it clear that the satisfaction required under Section 37 of the NDPS Act is limited to the question of grant of bail and does not call for a meticulous weighing of evidence.

22. This Court takes note of the fact that the Chargesheet in the present case

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has already been filed. Thus, the petitioner is no longer required for custodial interrogation. It is further noted that all the witnesses are Police officials and there are no independent public witnesses.

23. It is further noted that in the Status Report filed on behalf the State before the Trial Court, the prosecution has assigned the role of consumer to the petitioner.

24. Additionally, the latest Nominal Roll dated 03rd November, 2026, furnished by the Jail Authorities, shows that the petitioner has undergone 10 months and 19 days of custody as on 01st November, 2026, and that his conduct in custody has been satisfactory, and that he has no other criminal antecedents.

25. Thus, in light of the submissions made and the facts and circumstances of the present case, this Court is of the view that this is a fit case for grant of regular bail to the petitioner.

26. For the aforesaid reasons, the present application is allowed and the petitioner is released on regular bail in connection with *FIR No. 359/*2025 dated 11th December, 2025, registered at PS Crime Branch, Delhi, subject to the petitioner furnishing a personal bail bond in the sum of Rs. 50,000/-, with one surety of like amount, to the satisfaction of the Special Court/Duty Magistrate, and further subject to the following conditions:

a. The petitioner shall appear before the Special Court on each and every date of hearing.

b. The petitioner shall not leave NCT of Delhi without prior permission of this Court and shall ordinarily reside at the address as per prison records, and shall not change the address without informing the concerned Investigating Officer ("IO")/Station House Officer ("SHO").

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c. The petitioner shall surrender his Passport, if any, to the concerned IO, within a period of three days.

d. The petitioner shall furnish his mobile number to the concerned IO/SHO, and shall ensure that the said mobile number remains operational and switched on at all times. The mobile number shall not be changed, nor shall the phone be switched off, without prior intimation to the IO/SHO;

e. The petitioner shall not, directly or indirectly, contact, visit, or offer any inducement, threat, or promise to any of the prosecution witnesses or other persons acquainted with the facts of the case;

f. The petitioner shall not directly or indirectly tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the trial proceedings. The IO is directed to monitor the situation and, in the event of any complaint being made, to inquire into the same in accordance with law;

g. The petitioner shall report to the IO at PS Crime Branch, Delhi, once every month, in the first week of the month, unless exempted from doing so by the learned Trial Court.

h. The petitioner shall not commit any offence during the pendency of the proceedings;

27. The present bail application is allowed and accordingly disposed of in the aforesaid terms.

28. It is clarified that any observations made in the present order are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.

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29. A copy of the order be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

MINI PUSHKARNA, J

NOVEMBER 17, 2026/KR

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